

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

PETER SCHULTZ and	)	
DAVID MACK	)	1:11-cv-6225
Plaintiffs,	)	
	)	
v.	)	
	)	JURY TRIAL DEMANDED
BAC HOME LOANS SERVICING LP,	)	
Defendants	)	

**COMPLAINT**

1. Plaintiffs brings this action to secure redress for violations of the Equal Credit Opportunity Act ("ECOA") 15 U.S.C. § 1691, by their mortgage servicer.

2. The ECOA, 15 U.S.C. §1691(d)(1) requires that :

Within thirty days (or such longer reasonable time as specified in regulations of the Board for any class of credit transaction) after receipt of a completed application for credit, a creditor shall notify the applicant of its action on the application.

3. Although plaintiffs applied for a home loan modification in fall 2010, defendant has never sent any written response regarding this application, in violation of the ECOA.

**JURISDICTION**

4. This Court has jurisdiction under 28 U.S.C. §§ 1331 (federal question), and 15 U.S.C. § 1691(e) (ECOA).

5. Venue is appropriate because a substantial portion of the events that gave rise to this cause of action occurred here. The subject property is located in this District.

**PARTIES**

6. Plaintiffs are individuals who reside in this District.

7. BAC Home Loans Servicing, LP is a mortgage servicer, and is an affiliate of Bank of America.

**FACTS**

8. Plaintiffs obtained a home loan for property in Chicago, Illinois in or around 2009.

9. In September or October 2010, plaintiffs applied for a modification for their home loan with defendant.

10. Defendant sent plaintiffs notification that it had received their application on October 6, 2010.

11. Defendant never sent plaintiffs any request for additional information as to this application.

12. Defendant never sent plaintiffs any notice that they needed to supplement their application, or that it was incomplete in any way.

13. Defendant never called plaintiffs to notify them that the application was incomplete or otherwise improper.

14. Upon information and belief, defendant denied plaintiffs' application for credit in December 2010 or January 2011.

15. As of the filing of this complaint, more than six months after the decision not to extend credit, defendant has never sent plaintiffs any written decision as to this application.

**COUNT I- ECOA**

16. Plaintiff incorporates all previous paragraphs.

17. 15 U.S.C. §1691(d) requires that a servicer provide a response to an application for credit within 30 days.

18. Defendant has never provided plaintiffs any written notification of any action with regard to their September/October 2010 application.

19. Furthermore, and alternatively, defendant did not provide plaintiffs any notice that their application was wanting. 12 C.F.R. §202.9(c).

20. Plaintiffs have been damaged by these violations.

WHEREFORE, plaintiffs request this Honorable Court to enter judgment in favor of plaintiffs and against defendant for:

- a) Statutory and actual damages;
- b) Attorney's fees, litigation expenses and costs of suit; and
- c) Such other relief as the Court deems proper.

Respectfully submitted,

Alexander H. Burke

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**JURY DEMAND**

Plaintiffs demand trial by jury.

Respectfully submitted,

Alexander H. Burke

**Document Preservation**

Defendant is hereby directed to take affirmative steps to preserve all documents, records, data and all types of information concerning plaintiffs, their home, mortgage, any investors or third parties and relating to any other facts alleged herein.

/s/Alexander H. Burke